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LAWYERS

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MAY 13 2002

LONG PAINTING CO

Davis Wright Tremaine LLP

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May 6, 2002

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PRESTON, GATES & ELLIS LLP

Mr. John Iani  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 10  
1200 Sixth Avenue  
Seattle, WA 98101

Re: Long Painting Company Site

Dear Mr. Iani:

I represent Tytanic LLC, the owner of the property referred to as the Long Painting Company site located near the intersection of 10<sup>th</sup> Avenue South and South Elmgrove Street in Seattle, Washington. Tytanic leases the property to Long Painting Company. As you will recall, a meeting was held with yourself and other EPA representatives Michelle Pirzadeh and Dean Ingemansen in December 2001 regarding the Lower Duwamish Superfund Site. The meeting was arranged at the request of the Office of Congresswoman Jennifer Dunn and was also attended by Anne Long who is a principal of Tytanic, consultant Steve Simmons, Travis Sines (District Director for Congresswoman Dunn) and Nels Johnson.

The purpose of the meeting was to explore early resolution of the status of the property in relation to the Lower Duwamish Superfund Site. You and your colleagues expressed a willingness to explore early resolution, if the parties submitted to EPA a scientific investigation report regarding the environmental condition of the property and its possible relationship, or lack thereof, to the contaminants found in the river sediments.

Acting on EPA's request, Tytanic obtained a copy of the enclosed September 7, 2000 Site Investigation Report prepared by Kleinfelder Inc., an environmental consultant. Kleinfelder conducted a thorough environmental investigation of the property after consultations with the Washington Department of Ecology under the State's Voluntary Cleanup Program. The study design incorporated recommendations by Ecology. At page 12 of the Report, Kleinfelder

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concluded that "no other investigation or remediation is necessary" and that "[a]ny cleanup or additional investigation would be substantial and disproportionate to the reduction in risk that might be achieved."

Tytanic subsequently engaged the services of another qualified environmental consulting firm, the RETEC Group, Inc. to review the adequacy of the Kleinfelder study and obtain a second opinion. Enclosed is a copy of a letter from RETEC summarizing that review. With one exception regarding direction of ground water flow, RETEC concurred with Kleinfelder's interpretation of the analytical results in the Site Investigation Report. Moreover, RETEC has reviewed the technical data available on EPA's Website for the Lower Duwamish Site and has concluded that the only chemicals of interest in the Lower Duwamish sediments that are also chemicals of interest at the subject property are metals. Results of unfiltered groundwater samples that Kleinfelder collected from the monitoring wells on the property show that arsenic, chromium and lead were detected at levels that exceed Washington Model Toxics Control Act Method A cleanup levels. However, metals were not detected in filtered ground water samples, which indicates the presence of metals in ground water is likely due to entrained particulates and not to soluble metals. RETEC concludes that "[t]hese results indicate that ground water from the Long Painting property is not contributing to the sediment contamination in the Lower Duwamish Waterway."

The Kleinfelder Report and RETEC review demonstrate there is no reasonable basis for concluding that activities on the property have resulted in release of chemicals of interest to the Lower Duwamish sediments. This is the case even if one assumes that ground water beneath the property flows toward the River. Thus, there is no reasonable basis for concluding that the property has been the source of releases of chemicals of interest to Lower Duwamish sediments.

The activity on the property has been reduced, and Tytanic anticipates selling the property at some time in the future. However, the public notice and publicity over the Superfund Site have impaired Tytanic's ability to sell the property and have likely reduced its market value. We therefore request written assurance that EPA will not designate parties associated with the subject property as PRPs with respect to the Lower Duwamish Superfund Site. Given the lack of scientific evidence linking this property to contaminants in the River sediments, it would be inappropriate and unfair to consider these parties even as de minimus PRPs.

Thank you for meeting with my client and giving serious consideration to this request. We look forward to your response.

Very truly yours,

Davis Wright Tremaine LLP

A handwritten signature in cursive script, appearing to read 'Richard W. Elliott'.

Richard W. Elliott

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RWE:jkk  
Enclosure

cc: Tytanic LLC  
Hon. Jennifer Dunn  
Peter Gulick, Esq.  
Paul Lawrence, Esq.

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RICHARD W. ELLIOTT

April 18, 2002

The RETEC Group, Inc.  
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Bellevue, WA 98004-4300

Re: Review of Site Investigation Report - Long Painting Company

Dear Rich:

At the request of Anne L. Long of Tytanic LLC, we have reviewed the *Site Investigation Report* for the Long Painting Company (Kleinfelder, 2000). Since the Long Painting property is adjacent to the Duwamish River, we have also reviewed relevant information on the EPA Website relating to sediment contamination at the Lower Duwamish Waterway Superfund Site in the vicinity of the subject property. Our objectives were to review the technical adequacy of the Kleinfelder Report and determine, from the available information, whether the subject property is a likely source of chemicals of concern in the sediments of the Lower Duwamish Waterway.

We agree with Kleinfelder's interpretation of the analytical results in the *Site Investigation Report*; however, the groundwater flow direction in Figure 2 appears to be incorrect. The groundwater contours in this figure are based on measurements of depth to groundwater (Table 5) rather than groundwater elevation. Groundwater flows from high to low hydraulic head, as measured by the groundwater elevation. Groundwater elevation is equal to the measuring point elevation (usually the top of the well casing) minus the depth to water. If the site is assumed to be relatively flat (as described in Section 1.2), then a uniform measuring point elevation for the wells could be assumed to determine relative water level elevations and approximate groundwater flow direction. Using this assumption, the groundwater flow direction would be towards the Duwamish Waterway to the north-northeast (in the exact opposite direction as that shown on Figure 2). Water level elevations cannot be accurately determined without surveyed measuring point elevations for the monitoring wells; however, groundwater flow direction is likely to be towards the Duwamish Waterway in this location.

We have reviewed the sediment data available on EPA's website for the Lower Duwamish Waterway in the area of the Long Painting property. The only chemicals of interest in the Lower Duwamish that are also chemicals of interest at the Long Painting property are metals. If the groundwater flow direction is towards the Duwamish, groundwater from the Long Painting property could discharge to the waterway and potentially impact sediments in this area. Results of unfiltered groundwater samples collected from the monitoring wells on the Long Painting property show that arsenic, chromium, and lead were detected at levels that exceed MTCA Method A cleanup levels (Table 3 and Section 3.2.4). Metals were not detected in filtered

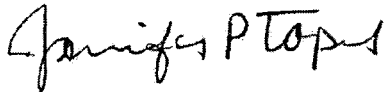
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groundwater samples (Table 4), which indicates the presence of metals in groundwater is likely due to entrained particulates and not to soluble metals. These results indicate that groundwater from the Long Painting property is not contributing to the sediment contamination in the Lower Duwamish Waterway.

Please feel free to contact Halah Voges or me at (206) 624-9349 if you have any questions regarding this review.

Sincerely,

The RETEC Group, Inc.



Jennifer P. Topel, P.E.  
Environmental Engineer

cc: Halah Voges – RETEC  
RETEC File No. DWT40-15845